

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

NO.: 4:19-CV-00111-D

**WILLIAM HARRIS and PHYLLIS
HARRIS,**

Plaintiffs,

v.

**MARY JANE VANDERBURG,
DOUGLAS MATTHEW GURKINS,
REMCO EAST, INC., and MARY
GRACE BISHOP,**

Defendants.

**JOINT MOTION TO AMEND
SCHEDULING ORDER**

The parties move for and stipulate to the issuance of an amended scheduling order (ECF 51) extending current litigation deadlines by 90 days, or alternatively, by another 28 days (both requests being made with the understanding that the parties may seek further extension for the same reasons set forth in this motion). A proposed order is lodged as an attachment to this joint motion.

Pursuant to Rule 16(b)(4) of the Federal Rules of Civil Procedure, there is good cause to grant this motion for the following reasons:

First, the motion is timely since it seeks to extend deadlines that have not yet expired. Fed. R. Civ. P. 6(b)(1)(A).

Second, all represented parties join in this motion.

Third, the current pandemic we are now experiencing, coronavirus disease 2019 (“COVID-19”) is a rapidly changing situation and there is much uncertainty. Given what we do know about the COVID-19 and how it spreads easily from person to person, multiple medical reporting as well the Centers for Disease Control and Prevention (“CDC”) recommend limiting human contact, known as “social distancing.” *See also, Standing Order of Chief United States District Judge Terrence W. Boyle, 20 SO 5, “In Re: Court Operations Under The Exigent Circumstances Created by the COVID-19 Pandemic” (E.D.N.C. March 18, 2020) (expires May 1, 2020 unless extended).* The CDC also reports as of the filing of this motion that older adults are experiencing the most severe illness resulting from COVID-19. This CDC reporting is directly relevant to this case since at least three parties (Plaintiffs and Defendant Vanderburg) are over the age of 60 with two parties being in their 70s (plaintiff William Harris and Defendant Vanderburg).

The uncertainty as to how long these social distancing measures currently in place are to continue and whether further restrictions will be imposed are also factors at play that affect case planning necessitating this motion. While some aspects of this pending case can be done remotely, like the filing of this motion, other aspects, such as examinations by depositions and/or possible experts, mediation, preparing discovery responses involving documents, cannot be done remotely as easily. The parties have already had to postpone a telephonic deposition that was scheduled for March 17, 2020 because of COVID-19 concerns (the court reporter, some of parties and counsel were to be present in an office) and now most of counsel and support staff in this case are now working from home. Further, preparing for such examinations like deposition also generally require in person preparation with one’s client, something now strongly discouraged in light of COVID-19. Adapting to the new reality of COVID-19 will take some

time, thought, and the acquirement of additional technology – technology for instance that can take the place of in person communication with one’s client. In the meantime, the parties are still engaged in discovery and going forward with matters ripe for the Court’s determination, as evidenced by the filing of plaintiffs’ motion to compel against Defendant Remco East, Inc. on March 21, 2020. (ECF 52-54).

Fourth, it is still unclear as of filing of this motion whether Defendant Vanderburg has acquired new counsel since the passing of her previous counsel Jonathan Bridgers.

Fifth, no pretrial conference or trial date has been set by the Court in this case.

For these reasons, there is good cause to grant this motion continuing the litigation deadlines listed in the scheduling order (ECF 51) by 90 days, or alternatively, by another 28 days (both requests being made with the understanding that the parties may seek further extension for the same reasons set forth in this motion).

SO STIPULATED.

Dated: March 24, 2020.

Respectfully submitted,

/s/ Kelly Anne Clarke

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CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2020, the foregoing document was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following counsel of record:

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And by depositing a copy of the foregoing document in the U.S. Mail, first class, postage prepaid, to the following:

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Dated: March 24, 2020.

/s/ Kelly Anne Clarke